FARAD CONTINUTION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

A.O.No.ll37 of 2005
with
C.A.No.l407 of 2005

Office Notes,Office Memorandum of Coram appearence,Court's Orders & Directors and Registrar's Order	Court or Judge's Order

Mr A.K.mishra for Pandey and co
for appellants

CORAM; A.M.KHANWILKAR J.

DATED 27.2.2006

P.C.

. None appears for the respondent. Office notice was issued on 27.l.2006 to the respondent indicating that the matter will be finally disposed at the notice stage. As none appears for the respondent I have no other option but to proceed exparte against the respondent on the assumption that the respondent concedes to the relief claimed by the appellants in the present proceedings. Admit. As short question is involved the appeal is

disposed of finally.

. Limited grievance in this appeal is that the trial court has committed manifest error in rejecting the joint application preferred by the parties on 2l.l.2005 to permit them to place on record the consent terms so that the notice of motion can be disposed of on that basis but the court below rejected the said application on the reasoning that ad-interim relief has been refused on l6.ll.2005 and there was no urgency. Besides,the court below proceeded to impose costs on the plaintiff at Rs.750 for urgently moving the court without there being any urgency in the matter. The approach adopted by the court below to say the least is unacceptable. If the parties have come forward before the court with consent terms and are inviting order on that basis so that the notice of motion could be disposed of on that basis, the court had no reason to refuse to entertain such request. The fact that the ad-interim

relief has been refused on earlier occasion by no stretch of imagination can be the basis for rejecting the joint request made by the parties for disposal of the motion as per the consent terms. For the same reason the order imposing cost of Rs.750 is also unacceptable. In my opinion this appeal ought to succeed. The trial court is directed to entertain the consent terms presented by the parties on joint application so that the notice of motion no. 4l95 of 2005 can be disposed of on the basis of the consent terms, unless there is tangible reasons to decline to grant such relief being opposed to law or public policy. The impugned order is set aside. This appeal is therefore disposed of with a direction to the trial judge to dispose of the notice of motion on the basis of the consent terms in accordance with law. Civil Application is also disposed of accordingly.